IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 12131 of 2004

Between:

J. Narayana Swamy, s/o J. Pakkirappa,
R/o D.No. 28-5-683, LIG. 173, APHB Colony, Ananthapur,

District Ananthapur.

... PETITIONER

AND

1 The Depot Manager, APSRTC, Ananthapur , District Ananthapur.
2 The Dy. Chief Traffic Manager, APSRTC, Ananthapur Region, Ananthapur

District.
3 The Regional Manager, APSRTC, Ananthapur , District Ananthapur.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in imposing major penalty vide proceedings No. 02/62(79)/93 ATP dated 30-9-1994 without conducting enquiry and confirming the same by the 2nd respondent and 3rd respondent their proceedings vide No. 19(79) 95-Dy CTM-A dated13-6-97 and No. PA/20(2)/200/RM-A dated 19-3-2001 respectively as illegal, arbitrary, unjustified, unsustainable, contrary to law and violative of principles of natural justice and set aside the same and consequently direct the respondents to add one annual increment to the pay of the petitioner

Counsel for the Petitioner: MR.A.RAMA RAO

For the Respondents: MR.P.VINAYAKA SWAMY, SC for APSRTC

The Court made the following Order:

ORDER:

For having failed to collect requisite fares and issue tickets a charge sheet was given to the petitioner on 21.05.1993 calling for his explanation. The petitioner gave his explanation.

The grievance of the petitioner is that without conducting any enquiry the impugned proceedings have been passed imposing the penalty of postponing future increments for a period of two years with cumulative effect. The second respondent modified the said penalty and reduced the same to a period of one year with cumulative effect. The third respondent confirmed the order passed by the second respondent. Questioning the same the present writ petition is filed.

The learned counsel for the petitioner contended that without conducting any enquiry a major penalty has been imposed and therefore it is not in accordance with the regulations of the corporation.

The learned counsel appearing for the respondent opposed the writ petition.

Heard both the counsel. At the request of both the counsel the main writ petition is taken up for disposal.

For certain irregularities committed by the writ petitioner in not collecting the fares and not issuing the tickets a charge sheet was issued to him calling for his explanation for which the petitioner gave an explanation. Thereafter without conducting any enquiry the penalty of postponing of increment for a period of two years with cumulative effect has been imposed. The same has been modified by the second respondent to that of withholding the increment for a period of one year with cumulative effect. There cannot be any dispute that imposing the penalty of withholding increments with cumulative effect is a major penalty, which cannot be imposed unless preceded by an enquiry.

In this case, admittedly, no enquiry is conducted. Hence, the order suffers from serious infirmities. Though it is a matter which can be remitted back to the concerned authority to consider the said fact, but the incident had taken place about a decade back and further the request of the learned counsel for the petitioner is only to modify the major penalty to that of a minor penalty, the same can be accepted.

In the result, the writ petition is disposed of modifying the penalty to that of withholding one increment without cumulative effect. In the circumstances of the case, there shall be no order as to costs.

_____

(K.C. BHANU, J)

July 15, 2004

Dsk/Ars

To

1 The Depot Manager, APSRTC, Ananthapur , District Ananthapur.
2 The Dy. Chief Traffic Manager, APSRTC, Ananthapur Region, Ananthapur

District.

3 The Regional Manager, APSRTC, Ananthapur , District Ananthapur.

4 Two C.D. Copies